

WHALEN & TUSA, P.C.

*A New York Professional Corporation
Attorneys and Counselors at Law*

33 West 19th Street, 4th Floor
New York, NY 10011
Telephone: (212) 400-7100
Facsimile: (212) 658-9685

June 3, 2010

BY ECF FILING AND FIRST CLASS MAIL

Honorable Arthur D. Spatt, USDJ
United States District Court
For the Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722-9014

Honorable A. Kathleen Tomlinson, USMJ
United States District Court
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722-9014

Re: Gunther v. Capital One, N.A., Civil Action No. 09-2966-ADS-AKT

Dear Judges Spatt and Tomlinson:

Counsel for both parties are pleased to report that they have agreed to a settlement in principle of this lawsuit as a class action. Both parties have executed a Term Sheet that, among other things, requires them to submit an agreement and class notice for the Court's preliminary approval within 30 days. The parties' jointly request an immediate stay of further proceedings in this action, including Plaintiff's pending discovery motions, until such time as the Court completes the Rule 23(e) settlement approval process.

Counsel for defendant Capital One, N.A. d/b/a Capital One Bank have reviewed this letter and consent to the relief requested herein.

Respectfully yours,
/s/
Joseph S. Tusa

cc: Counsel of Record (By ECF Filing)

Long Island Office: 565 Plandome Road, Suite 212, Manhasset, NY 11030